

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
MALIBU MEDIA, LLC,	:
	:
Plaintiff,	:
	:
vs.	:
	:
JOHN DOE subscriber assigned IP address	:
96.248.46.198,	:
	:
Defendant.	:
-----X	

Civil Action No. \_\_\_\_\_

**COMPLAINT – ACTION FOR  
DAMAGES FOR PROPERTY  
RIGHTS INFRINGEMENT**

**15 CV 1850**

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address 96.248.46.198, and alleges:

**Introduction**

1. This matter arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”).
2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed, Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the copyrighted movies set forth on Exhibit B.
3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the “Copyrights-in-Suit”).

**Jurisdiction And Venue**

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

#### **Parties**

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

**Factual Background**

*I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights*

11. The BitTorrent file distribution network (“BitTorrent”) is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent’s popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer’s BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit (“bit hash”) acts as that bit’s unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value (“file hash”), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the

BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first

publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

**Miscellaneous**

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

**COUNT I**  
**Direct Infringement Against Defendant**

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the

works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

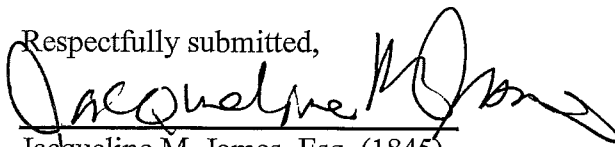
(D) Award Plaintiff statutory damages per infringed work pursuant to 17 U.S.C. § 504 (a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

(F) Grant Plaintiff any other and further relief this Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,  
By:   
Jacqueline M. James, Esq. (1845)  
The James Law Firm, PLLC  
445 Hamilton Avenue  
Suite 1102  
White Plains, New York 10601  
T: 914-358-6423  
F: 914-358-6424  
E-mail: jjameslaw@optonline.net

*Attorneys for Plaintiff*

## File Hashes for IP Address 96.248.46.198

ISP: Verizon Internet Services

Physical Location: Fishkill, NY

Hit Date UTC	File Hash	Title
02/01/2015 15:51:54	1DC93D96B7638424E5C52A5A3436AF13BD99A4F7	Maybe Yes
01/31/2015 00:08:11	6FAF4A8BF87E7F22CFC548553F31BD7882C671A1	Do Me Darling
01/29/2015 04:07:33	960142900F6F274F2D493F0066005F51322D1A15	For Your Eyes Only
01/29/2015 03:03:29	1C8606ECC16BF26E52CB6DF79E575AD0030F7E88	Cut Once More Please
01/29/2015 01:23:52	4C8290F62C3DEC8ACFB4D04338B66FDE74F15174	The Studio Part #2
01/26/2015 00:45:46	EF3741EB8E7AB48EE8ABF072CB21D7D00E6B6B35	Fucking Ballerinas
01/21/2015 02:43:56	8CCEDC5E21AEC36011B50420882935571F245798	Submissive Seduction
01/16/2015 01:27:53	8C3FB29A14DE572D73EF3B5D80D8BDF7AA50B894	Good Night Kiss
01/11/2015 00:54:56	C2375544175968E394B1B63F9C22792E7492ECE0	The Secretary
12/14/2014 15:43:47	6A5F70B8397BFB7EE2F4B7A95D448C6C83F1523F	First Time
12/11/2014 03:01:46	06F4FBFB71D1F6FBC6180FFCD29641EE9BB774B	Sexy En Noir
10/19/2014 14:50:49	4FF08D338D09A536F1C5443F7684685DED90CE21	Dripping Desires
10/12/2014 14:25:03	9C892AB5A36C0FF253C78303880823637673C417	Serving Seduction
09/29/2014 00:43:27	9E0A0624804B5C9A79BCF03D24474CC81A9C03B6	Cat Fight
09/20/2014 18:03:01	BAFDF84B006186B9F2BD817653E97230B8C74D0C	Fun For Three

Total Statutory Claims Against Defendant: 15

EXHIBIT A



## Copyrights-In-Suit for IP Address 96.248.46.198

ISP: Verizon Internet Services

Location: Fishkill, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Maybe Yes	PA0001931475	01/31/2015	02/17/2015	02/01/2015
Do Me Darling	PA0001921297	10/24/2014	11/06/2014	01/31/2015
For Your Eyes Only	PA0001909485	08/11/2014	08/19/2014	01/29/2015
Cut Once More Please	PA0001905491	07/01/2014	07/02/2014	01/29/2015
The Studio Part #2	PA0001931476	01/28/2015	02/17/2015	01/29/2015
Fucking Ballerinas	PA0001928404	01/17/2015	01/19/2015	01/26/2015
Submissive Seduction	PA0001878420	02/07/2014	02/13/2014	01/21/2015
Good Night Kiss	PA0001872970	12/08/2013	12/11/2013	01/16/2015
The Secretary	PA0001928397	01/09/2015	01/19/2015	01/11/2015
First Time	PA0001926092	12/13/2014	12/29/2014	12/14/2014
Sexy En Noir	PA0001909783	08/22/2014	08/26/2014	12/11/2014
Dripping Desires	PA0001918737	10/17/2014	10/22/2014	10/19/2014
Serving Seduction	PA0001916704	10/08/2014	10/09/2014	10/12/2014
Cat Fight	PA0001916043	09/26/2014	10/06/2014	09/29/2014
Fun For Three	PA0001914731	09/19/2014	09/22/2014	09/20/2014

Total Malibu Media, LLC Copyrights Infringed: 15